IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Writ Petition No.23429 of 1997
DATED 21-2-2007

BETWEEN
Smt.K.Kanaka Mahalaxmi.

.. Petitioner

And

The Regional Manager,
APSRTC, Visakhapatnam and another.

.. Respondents

THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.23429 of 1997

ORDER:

The request of the petitioner for compassionate appointment was rejected vide proceedings dated 7.3.1997 on two grounds. Firstly, that while the circulars of the Corporation required an application seeking compassionate appointment to be made within a year, the petitioner had submitted a belated application 8 years after the demise of her husband. The second ground for rejection is that the qualification for appointment to the post of an Attender under the A.P.S.R.T.C.Employees (Recruitment) Regulations, 1966 is a pass in 7th class or an equivalent examination and since the

petitioner does not fulfil the qualification required to be appointed as an attender and as no vacancies are existing in the cadre of sweeper, the petitioner is not entitled to be appointed on compassionate grounds. The petitioner was however requested to take the additional monitory benefits as per her eligibility in lieu of employment. In the counter affidavit, it is also stated that since there is a ban on recruitment, in lieu of compassionate appointment additional monetary benefits are being paid under the Bread Winner's Scheme.

Learned counsel for the petitioner has drawn the attention of this court to the specific averment in the affidavit filed in support of the writ petition that one Smt.K.Rama Lakshmi W/o late K.Harnath was provided appointment on compassionate grounds despite the fact that she had submitted the application 4 years after the demise of her husband. Learned counsel would also point out that there is no denial in the counter affidavit to this specific allegation made in the affidavit.

It must firstly be noted that Smt.K.Rama Lakshmi is not arrayed as a respondent in the writ petition and in the absence of her being a party to this writ proceedings, it would not be appropriate for this Court to examine the validity of her appointment on compassionate grounds. Be that as it may, even if it were to be assumed that K.Rama Lakshmi has been appointed illegally and contrary to the circulars issued by the respondent Corporation, which requires an application to be made seeking compassionate appointment, within one year of the death of an employee, it is well settled that no direction can be sought from this Court to perpetuate

an illegality. (**Chandigarh Administration v. Jagjit Singh**[1]). It is also well settled that appointment on compassionate grounds are made only to meet the dire necessities of the family in distress and cannot be provided after an undue delay. Taking note of the specific averments in the counter affidavit that the petitioner is entitled to be provided with monetary benefits under the Bread Winner's Scheme, in lieu of compassionate appointment, respondents are directed to compute the additional monetary benefits which the petitioner is entitled to under the Bread Winner's Scheme and to make payment of the said amount within a period of three months from the date of receipt of a copy of this order.

Subject to the above observation, the writ petition fails and is accordingly dismissed. No costs.

RAMESH RANGANATHAN,J

Dt: 21.2.2007
msv.

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[1] AIR 1995 SC 705